

Notice of Allowability

Application No.

09/485,377

Examiner

Leigh C. Maier

Applicant(s)

SOMMERMEYER ET AL.

Art Unit

1623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☐ This communication is responsive to amendment filed 10/17/05.
2. ☒ The allowed claim(s) is/are 1,2,4-9,11 and 13-23.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

Leigh C. Maier
Primary Examiner
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DETAILED ACTION

Status of the Claims

Claims 3 and 12 have been canceled. Claim 23 is newly added. Claim 1, 2, 4-9, 11 and 13-23 are pending.

Specification

It is noted that in the previous Office action, it was the specification that was objected to under 35 USC 132(a). This was not addressed, as such, in Applicant's response. The examiner had objected to the amendment at page 3, paragraph 3: "or starch derivatives that are soluble in the aqueous hydrolysis solution." However, upon reconsideration, it is the opinion of the examiner that the amendment to the specification does not introduce new matter. Paragraph 5 of the same page contemplates generically the use of soluble starches, which would provide support for this subset of starches.

Allowable Subject Matter

Claims 1, 2, 4-9, 11 and 13-23 are allowed.

The examiner has considered Applicant's arguments filed October 17, 2005. Applicant contends that Komai does not teach a process leading to a product having a narrow molecular weight distribution. This is not persuasive because the claim does not require any particular weight distribution, nor does the claim or specification define "narrow."

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Applicant has also submitted an opinion declaration by Dr. Henning stating “[a] person skilled in the art distinguishes between not soluble (Cellulose) and soluble starch or starch derivatives ...” It is not clear why there is the reference to cellulose, which is a completely different polysaccharide. However, it appears that the point of this declaration is that one of ordinary skill would know the difference between a solution and a suspension. The examiner agrees, but the reference to “suspension” in the claims was long ago deleted and is not a particular issue. The declaration goes on to say that this process yields a product with “specific properties in a selective and reproducible manner.” However, no data is submitted to support this contention.

The following is an examiner’s statement of reasons for allowance: Upon further consideration of the art, it is determined that while it would be within the scope of the artisan to optimize the flow rate in the use of the Komai (non-mixing) process, one of ordinary skill would not be motivated to further modify this process to further comprise a second hydrolysis reaction stage requiring mixing. Neither would one of ordinary skill be motivated to modify the Komai apparatus to include one or more reactors comprising mixing elements. Hughes (US 4,221,609) teaches a tubular reactor for the continuous hydrolysis of starch. See abstract and Figure 1. The reference does not teach or fairly suggest an apparatus also having additional reactors for further hydrolysis with stirring and neutralization.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled “Comments on Statement of Reasons for Allowance.”

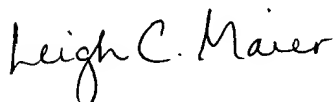
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Examiner's hours, phone & fax numbers

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Leigh Maier whose telephone number is (571) 272-0656. The examiner can normally be reached one Tuesday, Thursday, and Friday 7:00 to 3:30 (ET).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ms. Anna Jiang (571) 272-0627, may be contacted. The fax number for Group 1600, Art Unit 1623 is (571) 273-8300.

Visit the U.S. PTO's site on the World Wide Web at <http://www.uspto.gov>. This site contains lots of valuable information including the latest PTO fees, downloadable forms, basic search capabilities and much more. Information regarding the status of an application may be obtained from the Patent Application Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished application is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov> Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197.



Leigh C. Maier
Primary Examiner
January 6, 2006